

REMARKS/ARGUMENTS

A response after final was submitted to the USPTO within the two-month shortened statutory period. Because of a medical leave of absence by Examiner Luhrs, no response was received prior to the week before the application would go abandoned on January 2, 2004. In late December 2003, the application was reassigned to Examiner Lebentritt. A conversation with Examiner Lebentritt resulted in a Notice of Appeal being filed on December 30, 2003 as a precautionary measure to avoid abandonment. An Advisory Action was mailed on December 31, 2003. Based on subsequent conversations with Examiner Lebentritt, this Response is being submitted with a Request for Continued Examination in lieu of an Appeal Brief.

A telephone conversation with Examiner Lebentritt was conducted on February 26, 2003. During the conversation, Applicants' representative, Gus Larson, discussed the 112 rejections of claim 1 with Examiner Lebentritt. Examiner Lebentritt's attention was drawn to a specific disclosed embodiment of the application illustrated at FIGs. 13 and 14. It was discussed that the specific embodiment discloses etching an exposed surface of the dielectric spacer layer 122 directly, without a masking layer. It was agreed by Examiner Lebentritt and Mr. Larson that the 112, first paragraph rejection by Examiner Luhrs would be resolved by amending the claims to resolve an antecedent basis issue. With respect to the 112, second paragraph rejections, Examiner Lebentritt expressed reservation about the term "prior to forming a layer subsequent to the dielectric layer" as recited in claim 1. It was indicated by Mr. Larson that this is supported by the specification by the embodiment of FIGs. 13 & 14, which discloses that the layer is etched without a mask layer. It was agreed by Mr. Lebentritt and Mr. Larson that claim language reciting the etching of an exposed portion of the dielectric spacer layer would be more acceptable language, resulting in a search closer to that disclosed by the embodiment of FIGs. 13 and 14. New claims have been added using the agreed upon more acceptable language. In addition, Mr. Lebentritt is respectfully requested to favorably consider the amended claim language of claims 1-13 and 18.

Claims 1 and 18 have been amended to further clarify the invention. The specification beginning at page 9, line 15 indicates that L-shaped spacer is formed without employing a sacrificial forming spacer. Various claims have been amended to remove the words "the step(s) of", which are not needed for grammatical consistency. This change does not narrow the scope of the claims.

With respect to paragraphs 7-11 of the Final Office Action, independent claims 1 and 18 have been rejected under Sections 102 and 103 based upon Beckx and/or Gupta. Claims 1 and 18 recite etching a dielectric spacer layer without the use of a sacrificial forming spacer to form L-shaped spacers. The relied upon art combination discloses using sacrificial forming spacers. Therefore, because neither Beckx nor Gupta discloses the recited invention of Claims 1 and 18, withdrawal of the rejections of claims 1 and 18, and their dependent claims, is respectfully requested.

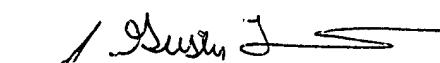
New claims 19-31 have been added, and are supported by the disclosure of FIGs. 13 and 14. Based on the amendments, and arguments herein, withdrawal of all claim rejections is solicited. In addition, the new dependent claims recite non-obvious subject matter.

If for any reason the Office is unable to allow the application on the next Office Action, and feels a telephone conference would be helpful to resolve any remaining issues, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

2-27-04

Date



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